

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

Wireless E911 Location Accuracy
Requirements

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PS Docket No. 07-114

**DOCOMO PACIFIC, INC.
PETITION FOR TEMPORARY WAIVER**

Docomo Pacific, Inc. (“Docomo”), by its attorney and pursuant to Sections 1.3 and 1.925 of the Commission’s Rules¹ and the Commission’s *Fourth Report and Order*,² hereby seeks a waiver of Section 20.18(i) of the “Indoor location accuracy for 911” Rules. Docomo requests that the Commission waive the location accuracy requirements and associated reporting requirements of Section 20.18(i). Docomo’s service area includes no Public Safety Answering Points (“PSAPs”) that are capable of receiving or using indoor location data or Phase II Enhanced 911 (“E911”) location data. Accordingly, Docomo requests a temporary waiver of the Commission’s indoor accuracy provisions and reporting rules up to and until a PSAP served by Docomo is capable of receiving and using Phase II E911 and indoor location data.

¹ 47 C.F. R. §§ 1.3 and 1.925.

² *Wireless E911 Location Accuracy Requirements*, Fourth Report and Order, 30 FCC Rcd 1259, at ¶ 157 (2015) (discussing the applicable waiver standards) (“*Fourth Report and Order*”).

Background

Docomo, a wholly-owned subsidiary of NTT Docomo, is a wireless telecommunications carrier providing wireless services to subscribers in Guam and the Northern Mariana Islands (“CNMI”). The island of Guam is approximately 212 square miles with a population density of 770 persons per square mile. The vast majority of the population resides on Saipan, Tinian, and Rota.

As a result of limited capital spending on equipment, Guam’s emergency response system throughout the years has been antiquated and incompatible with modern technology. For example, while the E911 system was capable of identifying caller location for landline calls, it is for the most part unable to determine locations of callers using a wireless phone. The CNMI essentially does not have an E911 system at this time. Currently, the operation and maintenance of Guam’s 911 Emergency System is through the Guam Fire Department. The Guam Fire Department is an official PSAP (hereinafter, the “Guam PSAP”) and only supports Phase 1 E911 and only has one interface that is connected to the local exchange carrier (“GTA”).³ All 911 calls in Guam are routed to GTA for final delivery to the Guam PSAP. Locations in unorganized portions of Docomo’s service area are not typically provisioned with fire or emergency medical care. Remote areas unconnected to the road system have virtually no emergency service.

³ It is noted that the following military PSAPs were recently added to the FCC PSAP registry: Anderson Air Force Base Local Dispatch Center and the U.S. Navy Guam Regional Dispatch Center. Docomo has not received a Phase I or Phase II E911 request from either of these military PSAPs.

Temporary Waiver of the Indoor Location Rules Is Warranted and in the Public Interest

Docomo requests waiver of the rules of the Federal Communications Commission (FCC or Commission) requiring Commercial Mobile Radio Service (CMRS) providers to deliver to Public Answering Safety Points (PSAPs) 911 callers' dispatchable location or x/y location within a prescribed number of meters for a prescribed percentage of 911 calls by dates set forth in FCC Rule § 20.18(i), 47 C.F.R. § 20.18(i).

Docomo also requests waiver of associated requirements to submit to the FCC live 911 call data reports, indoor location accuracy certifications, implementation plans and progress reports required by FCC Rule § 20.18(i)(3)(ii)(E), § 20.18(i)(3)(iii), § 20.18(i)(4)(i) and § 20.18(i)(4)(ii), respectively.

Docomo has no choice but to request waiver of the 911 call location obligations of Section 20.18(i). Docomo has no E911 Phase II capable PSAP, yet the obligations are not predicated on participation by an E911 Phase II capable PSAP. The version of Section 20.18(a) released with the *Fourth Report and Order* did, actually, exclude from 20.18(i) obligations CMRS providers with no E911 Phase II capable PSAPs. The *Erratum* took away the exception, and the rules published in the Federal Register matched the *Erratum*.

In the *Erratum*, at item 6, the limitation of 911 accuracy rules (to the extent the PSAP has requested and uses data) was changed to apply only to paragraphs (d) through (h)(2) and to paragraph (j) of Section 20.18. Paragraphs (d) through (h)(2) address Phase I (call back number and call site) and Phase II (locating outdoor 911 calls). Paragraph (j) covers delivery of confidence and uncertainty (c/u) data. Consequently the non-capable PSAP exception was

changed by the *Erratum* to apply only to Phase I, to Phase II outdoor rules, and to c/u requirements. Left missing from the non-capable PSAP exception was paragraph (i) – Indoor location accuracy for 911 and testing requirements. This change makes it impossible for Docomo to comply with Section 20.18(i).

Docomo must request a waiver of Section 20.18(i) because no PSAP in Docomo's wireless service area is capable of receiving or utilizing 911 Phase II location data. The Guam PSAP has not asked Docomo to provide outdoor or indoor 911 call location data. Therefore Docomo requests relief from requirements to deliver indoor location data, test and report live 911 call data, certify location accuracy, file implementation plans, or file progress reports.

Docomo Will Deliver Location Data upon Request from a Capable PSAP

Docomo intends on seeking 911 technical experts proposals for development of plans to implement E911 location services when the Guam PASP is capable of receiving, processing and utilizing the data requests such services. At this time expending scarce resources for delivery of accurate location data to a non-capable PSAP is irrational. However, when the Guam PSAP requests location data, Docomo is prepared to install the E911 call location system, then test and deploy with the Guam PSAP. Nonetheless, at this time, this activity and expenditure is futile without a valid request for the services from the Guam PSAP.

Docomo's Request Meets the Standard for Waiver

The Commission may waive its rules based upon a showing of good cause.⁴ It may exercise discretion to waive a rule where particular facts would make strict compliance with the

⁴ 47 C.F.R. § 1.3.

rule inconsistent with the public interest.⁵ The Commission may take into consideration, on a case-by-case basis, factors involving equity, hardship, or more effective implementation of overall policy.⁶ “Waiver of the Commission’s rules is therefore appropriate if special circumstances warrant a deviation from the general rule, and such deviation will serve the public interest.”⁷ The Commission’s authority to waive its rules resembles an obligation, in that it is a *sine quo non* to its ability to adopt otherwise inflexible rules.⁸ This waiver authority is a necessary “safety valve” that makes the system work.⁹

Docomo satisfies the Commission’s waiver criteria. Good cause exists to relieve Docomo from compliance with Rule Section 20.18(i) in light of the circumstances. No PSAP in Docomo’s service area has either requested or become capable of receiving and utilizing 911 Phase II call location data. This environment nullifies the objectives of Section 20.18(i).

The Commission recognizes the public interest in granting a waiver when “special circumstances particular to smaller carriers may warrant limited relief from 911 requirements.”¹⁰

⁵ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (“*Northeast Cellular*”) (citing *WAIT Radio*, 418 F.2d at 1159).

⁶ See, e.g., *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, Sprint Communications Company, L.P. Petition for Waiver*, CC Docket No. 94-129, Order, DA 00-620 (rel. Mar. 17, 2000), at para. 4 (citing *WAIT Radio*, 418 F.2d at 1157).

⁷ *Petitions for Waiver of Universal Service High-Cost Filing Deadlines*, WC Docket No. 08-71, *Advantage Cellular Systems, Inc. Petition for Waiver of the FCC’s Universal Service Rules*, CC Docket No. 96-45, Order on Reconsideration, 31 FCC Rcd 3753, 3754 (para. 5 n.12) (2016) (citing *Northeast Cellular*, 897 F.2d at 1166).

⁸ U.S. Cellular, *Petition for Limited Waiver and Request for Extension of Dates for Compliance with Mobility Fund Phase I Public Interest Obligations*, WC Docket No. 10-90, WT Docket No. 10-208 (filed May 5, 2016) (“U.S. Cellular Petition”), at 12.

⁹ *WAIT Radio*, 418 F.2d at 1157, 1159 (noting that “[t]he limited safety valve [provided by the waiver process] permits a more rigorous adherence to an effective regulation”), cited in *Smith Bagley, Inc.*, *Petition for Waiver*, Expedited Action Requested, AU Docket No. 14-78 (filed Aug. 8, 2014), at 4.

¹⁰ *Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Petitions for Waiver of Section 20.18(g)(1)(v) of the Commission’s Rules*, Order, 22 FCC Rcd 8927, at ¶ 7 (2007).

Circumstances such as “financial constraints, small and/or widely dispersed customer bases, and large service areas that are isolated, rural, or characterized by difficult terrain (such as dense forest or mountains)” are pertinent and in play for Docomo.¹¹ Compliance costs would be wasted by Docomo, a carrier serving exceedingly remote, isolated areas where no PSAP can receive or use the location data. Likewise, Docomo would bear undue burden devoting time and expense to periodically reporting to the Commission and public safety organizations E911 Phase II call activity and location accuracy that does not exist because no PSAP can use the data.

The public interest will be served by granting the requested temporary waiver so that Docomo can productively allocate attention to providing wireless services to customers in its rugged, remote and sparsely populated service area. Even in places with only a couple of users on the wireless network, Docomo can continue to provide wireless service rather than devote scarce resources to collect, deliver or report unused location data.

Until the time comes when the Guam PSAP provides Docomo with a valid request for 911 call location data, and such PSAP is funded and can receive and utilize the data, a temporary waiver of Section 20.18(i) obligations is appropriate, necessary and in keeping with Section 1.925(b)(3) of FCC Rules. A waiver may be granted in Wireless Radio Services Applications and Proceedings when:

(i) The underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or

(ii) In view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.¹²

¹¹ *Id.*

¹² 47 C.F.R. § 1.925(b)(3).

Enforcing Section 20.18(i) obligations on Docomo would not serve the purpose of locating 911 callers. Rather, it would trigger an inequitable waste of resources better spent on providing wireless service in remote areas. Docomo has no reasonable alternative but to ask for temporary waiver of 911 call location data collection, delivery and reporting requirements.

No PSAP will be disadvantaged by grant of Docomo's request. Local public safety officials may follow their own path toward achieving 911 call location capabilities. When the Guam PSAP is ready, Docomo will be able to implement a solution for delivery of the data. PSAPs may request FCC enforcement of Section 20.18(i) if they "have implemented policies that are designed to obtain all location information made available by CMRS providers when initiating and delivering 911 calls to the PSAP."¹³ Grant of Docomo's waiver request will not jeopardize the underlying purpose of this rule, ensuring that capable PSAPs can seek enforcement of CMRS providers' 911 indoor location obligations. Meanwhile, Docomo can conserve its financial resources in anticipation of the day it will provide location data to a capable recipient, to the benefit of customers and the local public safety community.

CONCLUSION

Participation by public safety authorities is essential for a provider like Docomo to perform its role in facilitating E911 location services. Subscribers, visitors and workers in Guam and the CNMI have few choices for CMRS providers that focus on their unique needs. Careful allocation of energy, time and resources is essential to provision of wireless services, and grant


¹³ 47 C.F.R. § 20.18(i)(2)(iv).

of this Petition will help ensure service in an area where callers might otherwise have no access to wireless network signals at all.

For the foregoing reasons, Docomo respectfully requests grant a temporary waiver of the Section 20.18(i) location collection, delivery and reporting requirements.

Respectfully submitted,

DOCOMO PACIFIC, INC.



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DECLARATION

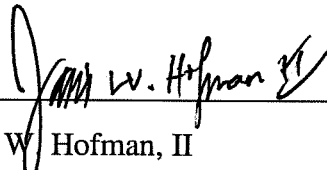
I, James W. Hofman, II, hereby declare under penalty of perjury as follows:

I am Chief Legal Officer of Docomo Pacific, Inc.

This Declaration is submitted in support of the foregoing Petition for Temporary Waiver.

I declare under penalty of perjury, pursuant to Sections 502 and 503(b) of the Communications Act of 1934 and Section 1001 of Title 18, United States Code, that the facts and information contained in the foregoing Petition are true and correct to the best of my knowledge.

Executed on MARCH 28, 2017



James W. Hofman, II
Chief Legal Officer
Docomo Pacific, Inc.

CERTIFICATE OF SERVICE

I, Todd Slamowitz, hereby certify that on this 30th day of March, 2017, copies of the foregoing PETITION FOR TEMPORARY WAIVER were sent by e-mail, in pdf format, to the following:

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